

## REMARKS

Claims 10-15, 32-37, 53-56, and 77-79 remain pending in the instant application. All claims presently stand rejected. Claims 10, 32, 53, and 77 are amended herein. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

### *Claim Rejections – 35 U.S.C. § 103*

Claims 10, 12-13, 32, 34-35, 77 and 79 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander et al. (“Alexander”) (US 6,177,931) in view of Seidman et al. (“Seidman”) (US 6,298,482). Claims 11, 33, and 78 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Seidman and in further view of Proehl et al. (“Proehl”) (US 6,990,676). Claims 14-15, 36-37, 53, 55-56 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Seidman and in further view of Herz et al. (“Herz”) (US 5,758,257). Claim 54 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Seidman and in further view of Herz and Proehl.

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

### Independent Claims 10, 32, 53, and 77

Amended independent claim 10 now recites, in pertinent part

sending demand data feedback from the client to the server **after a predetermined amount of pieces of content has been utilized since the last time demand data feedback was sent to the server** and the demand data related to the utilized pieces of content has been generated, the demand data feedback to indicate the relative desirability of the pieces of content available for future broadcast.

Applicant respectfully submits that the combination of the prior art cited by the Examiner fails to disclose sending demand data feedback from the client to the server after a predetermined amount of pieces of content has been utilized since the last time demand data feedback was sent to the server.

The Examiner acknowledges that Alexander fails to teach sending the demand data feedback from the client to the server after the demand data related to a predetermined amount of pieces of content is generated. See *Office Action* mailed 3/13/06, page 4, Response to Arguments. However, the Examiner cites that Seidman is disclosing reporting the viewer profile to the headend after a predetermined amount of time and states that Seidman “clearly teaches sending demand data feedback from the client to the server after the demand data related to a predetermined amount of pieces of content is generated, where the predetermined amount is the amount of demand data (viewer profile information) collected in the predetermined time period.” *Id.*

Accordingly, amended independent claim 10 now recites sending demand data feedback from the client to the server after a predetermined amount of pieces of content has been utilized since the last time demand data feedback was sent to the server. In contrast, Seidman discloses a technique that sends a periodic historical report to the server based on the **amount of time elapsed**. To be sure, Seidman states (see Column 6, Lines 38-44, as cited by the Examiner, for reference) (emphasis added):

Each time the user's system is powered on, 16, after system initialization 17 (which includes identification of the viewer profile to be used for this viewing session), **the microcontroller determines if a periodic historical report is due 18, based on the “historical report period” parameter 59 in the viewer profile and the current time and date.** This parameter is adjustable by the user. If a report is due, it is sent to the head end via the STB output port 8.

Further, in Column 6, Lines 57-59, as cited by the Examiner, Seidman discloses (emphasis added):

In addition (assuming a short report period **such as a few hours**), the VRS reports may be used by the head end to determine the status of the user's equipment and to diagnose problems.

In other words, Seidman clearly fails to disclose a method including sending demand data feedback from the client to the server after a predetermined amount of pieces of content has been utilized since the last time demand data feedback was sent to the server. This is self-evident by the fact that Seidman only discloses a technique that keeps track of viewer selection information and periodically reports it to the head end; and whether the periodic historical report is due is determined by the **time elapsed** (for

example, “a few hours” as explicitly stated by Seidman) based on the “historical report period” parameter 59 in the viewer profile and the current time and date. However, Seidman does not disclose a technique to actually send demand data feedback from the client to the server **after a predetermined amount of pieces of content has been utilized since the last time demand data feedback was sent to the server.**

Consequently, the combination of Alexander and Seidman fails to disclose, teach or suggest all elements of claim 10, as required under M.P.E.P. § 2143.03. Independent claims 32, 53, and 77 now include similar non-obvious elements as independent claim 10. Accordingly, Applicant requests that the instant §103(a) rejections of claims 10, 32, 53, and 77 be withdrawn.

#### Dependent Claims

The dependent claims are non-obvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicant respectfully requests that the instant § 103 rejections of the dependent claims be withdrawn.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicant believes the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

### CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

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Date: May 23, 2006



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